

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DARRELL SHAVERS,

Plaintiff,

Case No. 19-11132

vs.

HON. MARK A. GOLDSMITH

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

OPINION & ORDER

**(1) ACCEPTING IN PART THE RECOMMENDATION CONTAINED IN THE
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION DATED DECEMBER
6, 2019 (Dkt. 18) RECOMMENDING DISMISSING THIS ACTION FOR WANT OF
PROSECUTION**

This matter is presently before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge Patricia Morris, issued on December 6, 2019 (Dkt. 18). In the R&R, the Magistrate Judge recommends that the Court dismiss this action with prejudice for want of prosecution.

The parties have not filed objections to the R&R, and the time to do so has expired. See Fed. R. Civ. P. 72(b)(2). The failure to file a timely objection to an R&R constitutes a waiver of the right to further judicial review. See Thomas v. Arn, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”); Smith v. Detroit Fed’n of Teachers, 829 F.2d 1370, 1373-1374 (6th Cir. 1987) (failure to file objection to R&R “waived subsequent review of the matter”); Cephas v. Nash, 328 F.3d 98, 108 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or

omission in a magistrate judge's report waives further judicial review of the point."); Lardie v. Birkett, 221 F. Supp. 2d 806, 807 (E.D. Mich. 2002) ("As to the parts of the report and recommendation to which no party has objected, the Court need not conduct a review by any standard."). However, there is some authority that a district court is required to review the R&R for clear error. See Fed. R. Civ. P. 72 Advisory Committee Note Subdivision (b) ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation."). Therefore, the Court has reviewed the R&R for clear error. On the face of the record, the Court finds no clear error. However, because there is some indication that Shavers may not fully understand how to proceed in this matter, see 10/25/2019 Letter by Shavers (Dkt. 16), the case will be dismissed without prejudice.

Accordingly, the Court accepts in part the recommendation contained in the Magistrate Judge's R&R (Dkt. 18). This case is dismissed without prejudice for want of prosecution. Fed. R. Civ. P. 41(b).

SO ORDERED.

Dated: January 29, 2020
Detroit, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge